

REMARKS

Reconsideration of the Final Office Action of August 11, 2006 is respectfully requested.

In the Office Action the status of the claims was listed as follows:

Claims allowed 1-15, 17-19, 28-31, and 33-35.

Claims objected to 23-26.

Claims rejected 20-22, 27, 36-43, 45 and 46 (with claims 20, 27, 36, 40, 45 and 46 being independent claims).

To summarize the claim amendments made herein:

A) Independent claim 20 has been amended to include the subject matter of the now canceled dependent claim 21.

B) Objected to dependent claims 24 and 25 have been rewritten into independent form and the dependency of claim 26 has been fixed.

C) Independent claim 46 has been canceled (the excess claim fee for one extra independent claim relative to the revisions in B above is included with this filing)

The discussion to follow thus focuses on the 35 U.S.C. 102(b) rejection under Brooks raised against claims 20-22, 27, 36-43, and 45-46.

In the Office Action there is set forth that Brooks discloses the following:

- a) foam chemical flow dispenser (14);
- b) foam chemical flow dispenser body (22);
- c) mixing module (29);
- c) pivotable door/closure device (54) [movable between a mixing module hold position and a mixing module access position (col. 4, Par. 22-37)];
- d) covering plate (60); and
- e) means (57) for releasably locking the door in the hold position; and
- f) “wherein the means for releasably locking the door in the hold position **includes a toggle clamp as seen in Figure 3**”

Considering amended independent claim 20 as an example, this rejection and particularly assertion (f) above is respectfully traversed. That is, in paragraph c) above, element 54 (the “latch mechanism”) is referenced as the pivotable door movable between a mixing module hold position and a mixing module access position, and element 57 is defined as the releasable locking means. The present claims include the feature of a pivotable door movable between a mixing module hold position and a mixing module access position and a toggle clamp as a means for releasably locking the door. However, in the Office Action, reliance is placed on the latch mechanism 54 as the pivotable door movable between a mixing module hold position and a mixing module access position and thus it is respectfully submitted to be improper to rely on that same structure in Brooks as the toggle clamp. In other words, while the retainer finger 57 may work to hold in the nozzle 29, reliance cannot be placed on the portion extending to that finger as the toggle clamp as it is already being relied upon at the pivotable door movable between a mixing module hold position and a mixing module access position.

Brooks is also respectfully submitted not to anticipate (or render obvious) the claimed arrangement in independent claim 27. In claim 27 there is reference to a pivotable door movable between a mixing module hold position and a mixing module access position, means for releasable locking of the door, and wherein both the door and the dispenser body have a recessed receiving portion for receiving and at least partially peripherally encompassing a portion of the mixing module received (e.g., the disclosed invention illustrates an example for a cylindrical mixing module wherein there is a circumferential peripheral encompassing of the received mixing module by way of the recessed portion of the dispenser body and the pivotable door). In Brooks, on the other hand, there is a narrow thickness blade-like lever having flat under-edging that does not peripherally encompass the received mixing module received therein but is used merely as a way of axially locking the mixing module in place by hook contact.

Independent claim 40 also describes an adjustable cover housing which peripherally encompasses and contacts an exterior surface of said mixing module and is adjusted from the

mixing module hold mode and the mixing module enabled access mode.. Accordingly, the deficiencies in Brooks noted above relative to claim 27 are equally deficient relative to claim 40.

Similarly the noted arrangement of Brooks fails to disclose or suggest the claimed arrangement of independent claim 36 which comprises a closure device that includes a protective cover housing. The blade like lever of Brooks fails to present a pivoting closure device that entails a protective cover housing structure as that expression would be understood/interpreted by one of ordinary skill in the art. In other words a single edge blade with end point contact would not be considered to represent a protective cover housing.

This deficiency in Brooks is also applicable to the claimed method of claim 45 which involves the flipping open of a cover housing, which, as described above, is not disclosed or suggested by the blade lever 54 of Brooks which functions merely as an axial lock for the telescoped mixing module and need not and does not provide a cover housing function like the adjustable and peripherally encompassing cover housing of the present application.

Based on the foregoing, it is respectfully submitted that all pending claims stand in immediate condition for allowance and confirmation of the same at the Examiner's earliest convenience is respectfully requested. It is also respectfully submitted that the application stands in condition for allowance. If for any reason, however, it is deemed that the present application is not in condition for immediate allowance, the Examiner is invited to telephone the undersigned to further discuss the case. Also, if any fees are due in connection with the filing of this Amendment, such as fees under 37 C.F.R. §1.16 or 1.17, please charge the fees to Deposit Account 02-4300; Order No. 034017.006.

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

By: s/Dennis C. Rodgers/
Dennis C. Rodgers, Reg. No. 32,936
1850 M Street, N.W., Suite 800
Washington, D.C. 20036
Telephone: (202) 263-4300

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